

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	Case No. 3:18-cr-41
	:	
v.	:	Judge Thomas M. Rose
	:	
JOSHUA R. KIRTLEY,	:	
	:	
Defendant.	:	
	:	
	:	

**ENTRY AND ORDER DENYING MOTION: ASKING COURTS TO REMOVE
THE 2D1.1(b)(1) ENHANCEMENT FROM MY P.S.R./P.S.I. (DOC. NO. 38)**

This case is before the Court on a filing entitled, Motion: Asking Courts to Remove the 2D1.1(b)(1) Enhancement from my P.S.R./P.S.I. (the “Motion”) (Doc. No. 38), submitted by Defendant Joshua R. Kirtley (“Kirtley”). In his Motion, Kirtley seeks to reduce the term of his current incarceration. (*Id.* at PageID 108.) More specifically, Kirtley seeks to remove the firearm enhancement from his sentencing calculation, as imposed by the Court in United States District Court for the Southern District of Ohio Case No. 2:20-cr-103 pursuant to Federal Sentencing Guideline § 2D1.1(b)(1). (*Id.*) That judgment was issued by United States District Judge Edmund A. Sargus, whereas the undersigned has not imposed a sentence on Kirtley including Section 2D1.1(b)(1)’s firearm enhancement.

As a rule “a party may not have his case heard by a judge of his choosing.” *Cobble v. Bernanke*, No. Misc.A. 3:09MC-3-R, 2009 WL 1076137, at *2 (W.D. Ky. Apr. 21, 2009). In keeping with this principle, “[t]he structure of the federal courts does not allow one judge of a district court to rule directly on the legality of another district judge’s acts or deny another district

judge his or her lawful jurisdiction.”” *Id.* (quoting *Dhalluin v. McKibben*, 682 F. Supp. 1096, 1097 (D. Nev. 1988)). It is clear then that the undersigned cannot dispose of Kirtley’s Motion on the merits. Judge Sargus imposed the sentence that Kirtley moves to reduce and, by considering the Motion, the undersigned would be directly ruling on the legality of Judge Sargus’s judgment.

Accordingly, because the undersigned is not the proper judicial officer to consider it, the Court hereby **DENIES** Kirtley’s Motion: Asking Courts to Remove the 2D1.1(b)(1) Enhancement from my P.S.R./P.S.I. (Doc. No. 38). However, in the interest of due process, the **Clerk is directed to transmit Kirtley’s Motion to the chambers of United States District Judge Edmund A. Sargus for a review of the Motion on its merits, if appropriate.**

DONE and ORDERED in Dayton, Ohio, this Wednesday, May 14, 2025.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE